(4) If at any time subsequent to purchase, a mortgage-related security that is guaranteed as to both principal and interest by the Federal Agricultural Mortgage Corporation no longer complies with the interest rate risk policy that the bank's board of directors adopted under paragraph (d)(1) of this section:

(i) The portfolio managers shall report to the board of directors about the status of the investment, and the conditions that are causing excessive interest rate risk in the security. The portfolio managers shall also recommend to the board of directors a comprehensive plan to prevent loss to the bank's capital and earnings.

(ii) The board of directors of each Farm Credit bank shall adopt and implement a comprehensive policy to prevent the investment from causing loss to the bank's capital and earnings. Any amendment to the plan shall also be approved by the bank's board of directors;

(iii) Until the security is actually divested, the portfolio managers shall report to the board of directors, at least quarterly, about changes in the status of the investment, and the effect of the policy to prevent loss to the bank's capital and earnings.

(iv) All documentation regarding the formulation, adoption, implementation, and revision of the plan to prevent the security from causing loss to the bank's capital and earnings shall be available for review by the Office of Examination of the Farm Credit Administration.

[58 FR 63058, Nov. 30, 1993]

Subpart G [Reserved]

Subpart H—Capital Adequacy

SOURCE: 53 FR 39247, Oct. 6, 1988, unless otherwise noted.

§ 615.5200 General.

(a) The Board of Directors of each Farm Credit System institution shall determine the amount of total capital, core surplus, total surplus, and unallocated surplus needed to assure the institution's continued financial viability and to provide for growth necessary to meet the needs of its borrowers. The minimum capital standards specified in this part are not meant to be adopted as the optimal capital level in the institution's capital adequacy plan. Rather, the standards are intended to serve as minimum levels of capital that each institution must maintain to protect against the credit and other general risks inherent in its operations.

(b) Each Board of Directors shall establish, adopt, and maintain a formal written capital adequacy plan as a part of the financial plan required by § 618.8440 of this chapter. The plan shall include the capital targets that are necessary to achieve the institution's capital adequacy goals as well as the minimum permanent capital and surplus standards. The plan shall address any projected dividends, patronage distribution, equity requirements, or other action that may decrease the institution's capital or the components thereof for which minimum amounts are required by this part. The plan shall set forth the circumstances in which retirements or revolvements of stock or equities may occur. If the plan provides for retirement or revolvement of equities included in core surplus, in connection with a loan default or the death of a former borrower, the plan must require the institution to make a prior determination that such retirement or revolvement is in the best interest of the institution, and also require the institution to charge off an amount of the indebtedness on the loan equal to the amount of the equities that are retired or canceled. In addition to factors that must be considered in meeting the minimum standards, the board of directors shall also consider at least the following factors in developing the capital adequacy plan:

(1) Capability of management;

(2) Quality of operating policies, procedures, and internal controls;

(3) Quality and quantity of earnings;

(4) Asset quality and the adequacy of the allowance for losses to absorb potential loss within the loan and lease portfolios;

(5) Sufficiency of liquid funds;

(6) Needs of an institution's customer base; and

(7) Any other risk-oriented activities, such as funding and interest rate risks, potential obligations under joint and several liability, contingent and off-balance-sheet liabilities or other conditions warranting additional capital.

[53 FR 39247, Oct. 6, 1988, as amended at 62 FR 4446, Jan. 30, 1997]

§615.5201 Definitions.

For the purpose of this subpart, the following definitions shall apply:

(a) *Allocated investment* means earnings allocated but not paid in cash by a System bank to an association or other recipient.

(b) *Commitment* means any arrangement that legally obligates an institution to purchase loans or securities, to participate in loans or leases, to extend credit in the form of loans or leases, to pay the obligation of another, to provide overdraft, revolving credit or underwriting facilities, or to participate in similar transactions.

(c) *Credit conversion factor* means that number by which an off-balance-sheet item shall be multiplied to obtain a credit equivalent before placing the item in a risk-weight category.

(d) *Direct lender institution* means an institution that extends credit in the form of loans or leases to eligible borrowers in its own right and carries such loan of lease assets on its books.

(e) *Government agency* means an agency of the United States Government whose obligations are explicitly guaranteed by the United States Government or their successors.

(f) *Government-sponsored agency* means agencies or instrumentalities chartered by the United States Congress to serve a public purpose whose debt obligations are not explicitly guaranteed by the United States Government.

(g) *Institution* means a Farm Credit bank, Federal land bank association, Federal land credit association, production credit association, agricultural credit association, Farm Credit Leasing Corporation, bank for cooperatives, agricultural credit bank, and their successors.

(h) *Nonagreeing association* means an association that does not have an allocation agreement in effect with a Farm Credit Bank or agricultural credit bank pursuant to §615.5210(e).

(i) *Performance-based standby letter of credit* means any letter of credit or similar arrangement that represents an irrevocable obligation to be beneficiary on the part of the issuer to make payment on any default by the account party in the performance of a nonfinancial or commercial obligation.

(j) *Permanent capital* means—

(1) Current year retained earnings;

(2) Allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

(3) All surplus;

(4) Stock issued by a System institution, except—

(i) Stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder;

(ii) Stock that is protected under section 4.9A of the Act or is otherwise not at risk;

(iii) Farm Credit Bank equities required to be purchased by Federal land bank associations in connection with stock issued to borrowers that is protected under section 4.9A of the Act;

(iv) Capital subject to revolvement, unless:

(A) The bylaws of the institution clearly provide that there is no express or implied right for such capital to be retired at the end of the revolvement cycle or at any other time; and

(B) The institution clearly states in the notice of allocation that such capital may only be retired at the sole discretion of the board in accordance with statutory and regulatory requirements and that no express or implied right to have such capital retired at the end of the revolvement cycle or at any other time is thereby granted;

(5) Term preferred stock with an original maturity of at least 5 years and on which, if cumulative, the board of directors has the option to defer